

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

In the matter of the complaint of DOLPHIN
SWIMMING AND BOATING CLUB, a
non-profit corporation, for exoneration from,
or limitation or liability,

Plaintiff-in-limitation,

ROBERT GUY PELUSO,

Claimant,

v.

DOLPHIN SWIMMING AND BOATING
CLUB; and JOHN GRUNSTAD,

Respondents.

Case No. [18-cv-02425-SI](#)

**ORDER ADOPTING REPORT AND
RECOMMENDATIONS AND
DIRECTING ISSUANCE OF
MONITION AND INJUNCTION;
ISSUING NOTICE; AND, APPROVING
AD INTERIM STIPULATION FOR
VALUE; SETTING CASE
MANAGEMENT CONFERENCE FOR
AUGUST 24, 2018 AT 2:30 P.M.**

On July 18, 2018, Magistrate Judge Beeler issued a Report and Recommendation directing that this admiralty case be reassigned to a district court judge, and recommending that the Court issue an injunction restraining the institution or prosecution of any and all suits or actions (other than this action) against the Dolphin Club or the vessel ARIAS II (the "Vessel") regarding any claim or claims arising out of the Vessel's August 19, 2017 voyage. Objections to the Report and Recommendation were due August 1, 2018. No party has filed an objection.

The Court has reviewed the Report and Recommendation and hereby ADOPTS it. The Court schedules an initial case management conference for **August 24, 2018 at 2:30 p.m.** The

1 Court also issues the following order and injunction:¹

2 WHEREAS a complaint was filed in this Court by Plaintiff Dolphin Swimming and
3 Boating Club ["Dolphin Club"], owner of the vessel ARIAS II [the "Vessel"], on April 23, 2018,
4 seeking exoneration from, or limitation of, liability as provided for by statute, for all losses,
5 injuries, damages, and deaths resulting or arising from the Vessel's voyage on August 19, 2017;
6 and,

7 WHEREAS appearing from the Plaintiff's complaint that the value of the Vessel at the end
8 of the voyage on August 19, 2017 did not exceed \$40,000, and that claims may be asserted against
9 the Plaintiff for loss, injuries, damage, or death, and that said claims are subject to limitation in the
10 action now on file in this Court; and,

11 WHEREAS an Ad Interim Stipulation for Value was executed and filed by the Plaintiff in
12 the amount of \$40,000 with interest at six percent (6%) per annum, as security for the amount or
13 value of the Plaintiff's interest in the Vessel, if any;

14 IT IS HEREBY ORDERED that the above-described Ad Interim Stipulation for Value
15 deposited by the Plaintiff with the Court for the benefit of claimants, in the sum of \$40,000 with
16 interest at six percent (6%) per annum, as security for the amount or value of the Plaintiff's
17 interest in the Vessel, if any, is hereby approved;

18 IT IS HEREBY ORDERED that a notice and monition hereby issues out of, and under the
19 seal of, this Court to and against all persons and entities claiming losses, damages, injuries, or
20 death resulting or arising from the subject voyage of the ARIAS II on August 19, 2017,
21 admonishing them to appear and file their respective claims and answers with the Clerk of this
22 Court on or before 30 days after the filing of this Order, and to make due proof of their respective
23 claims in such manner as may hereinafter be directed by further order of this Court, with liberty to
24 any claimants who have duly filed their claims to answer the Plaintiff's Complaint and to file such
25 answer with the Clerk of this Court on or before the date specified above at U.S. District Court,
26 Northern District of California, 450 Golden Gate Avenue, San Francisco, CA 94102, and serve on

27 ¹ Magistrate Judge Beeler issued the injunction on April 25, 2018. Dkt. No. 11. However,
28 as the Report and Recommendation states, a magistrate judge is not permitted to enter such an
order, thus necessitating the reassignment of the case to a district court judge.

1 or mail a copy thereof to Plaintiff's attorneys, Galin G. Luk, 900 Front Street, Suite 350, San
2 Francisco, CA 94111, or be DEFAULTED AND FOREVER BARRED;

3 IT IS HEREBY ORDERED that the Plaintiff shall give public notice of said monition
4 pursuant to Federal Rules of Civil Procedure, Supplemental Rule F(4) for Certain Admiralty and
5 Maritime Claims, by causing such notice to be published in a newspaper of general circulation in
6 San Francisco, California, once per week for four consecutive weeks prior to the deadline set out
7 above for the filing of claims. The form of the notice shall conform substantially with the Notice
8 to Claimants of Limitation of Liability Action and notice for publication concurrently submitted
9 by the Plaintiff, and included in their pleadings, and is approved by this Court; and,

10 IT IS FURTHER ORDERED that not later than the date of the second publication of said
11 notice, the Plaintiff shall mail a copy of said notice to every person and entity known to have made
12 any outstanding claim against the Plaintiff or the Vessel arising from the subject voyage; and,

13 IT IS FURTHER ORDERED that the institution or prosecution of any suit, action, or other
14 legal or administrative proceeding of any nature in any venue (outside these proceedings) against
15 the Plaintiff or the ARIAS II, regarding any claim resulting or arising from the subject voyage
16 ARE HEREBY ENJOINED, STAYED, AND RESTRAINED, said injunction to remain in effect
17 until the determination of this action in this Court; and,

18 IT IS FURTHER ORDERED that service of this order as an Injunction shall be made by
19 delivering a certified copy hereof to the person or persons to be enjoined, or to their respective
20 attorneys or representatives.

21 **IT IS SO ORDERED.**

22
23 Dated: August 2, 2018



24 SUSAN ILLSTON
25 United States District Judge
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